

REMARKS

The Office Action dated June 28, 2005, has been received and carefully considered. Claims 1-24 are pending in the present application. Reconsideration of the outstanding rejections in the present application is respectfully requested based on the following remarks.

At the outset, Applicants note with appreciation the indication on page 4 of the Office Action that claims 5, 9, and 13 would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. However, Applicants have opted to defer rewriting the above-identified claims in independent form pending reconsideration of the arguments presented below with respect to the rejected claims.

I. THE ANTICIPATION REJECTION OF CLAIMS 1-4, 6-8, 10-12, 14-24

On pages 2-4 of the Office Action, claims 1-4, 6-8, 10-12, and 14-24 were rejected under 35 U.S.C. § 102(e) as being anticipated by Ashwood Smith (U.S. Patent Application Publication No. 2005/0078659). This rejection is hereby respectfully traversed.

Under 35 U.S.C. § 102, the Patent Office bears the burden of presenting at least a prima facie case of anticipation. In re

Sun, 31 USPQ2d 1451, 1453 (Fed. Cir. 1993) (unpublished). Anticipation requires that a prior art reference disclose, either expressly or under the principles of inherency, each and every element of the claimed invention. Id.. "In addition, the prior art reference must be enabling." Akzo N.V. v. U.S. International Trade Commission, 808 F.2d 1471, 1479, 1 USPQ2d 1241, 1245 (Fed. Cir. 1986), cert. denied, 482 U.S. 909 (1987). That is, the prior art reference must sufficiently describe the claimed invention so as to have placed the public in possession of it. In re Donohue, 766 F.2d 531, 533, 226 USPQ 619, 621 (Fed. Cir. 1985). "Such possession is effected if one of ordinary skill in the art could have combined the publication's description of the invention with his own knowledge to make the claimed invention." Id..

The Ashwood Smith reference was filed March 22, 2004, as a continuation patent application of U.S. Patent Application No. 09/507,080, filed February 18, 2000 (now issued U.S. Patent No. 6,738,354). Thus, the Ashwood Smith reference has an effective filing date of February 18, 2000.

At this point it should be noted that the Ashwood Smith reference has an indication on the first page thereof that it is related to U.S. Provisional Patent Application No. 60/171,703, filed December 23, 1999. However, this information is

incorrect. That is, the Ashwood Smith reference, as well as related U.S. Patent Application No. 09/507,080, are both assigned to the same assignee as that of the present patent application. Thus, this common assignee would be well aware of any patent application filings that are related to the Ashwood Smith reference, as well as to related U.S. Patent Application No. 09/507,080. Indeed, this common assignee confirms that priority to U.S. Provisional Patent Application No. 60/171,703 was never claimed for the Ashwood Smith reference or for related U.S. Patent Application No. 09/507,080. Furthermore, a query of the U.S. Patent and Trademark Office (USPTO) Patent Application Information Retrieval (PAIR) system for U.S. Provisional Patent Application No. 60/171,703 reveals that the records of the USPTO are incorrect (see Appendix B).

In view of the foregoing, Applicants respectfully submit that the invention disclosed and claimed in the present application was conceived prior to February 18, 2000. Applicants also respectfully submit that they were duly diligent in preparing and filing the present application from the date of conception of the invention disclosed and claimed in the present application to the filing date of the present application (i.e., October 11, 2000). Applicants support the above-stated submissions with inventor declarations under 37 C.F.R. § 1.131,

which were previously submitted in Applicants' response to the Office Action dated June 9, 2004, and which contain a showing of facts that clearly establish the above-stated submissions. Accordingly, the Ashwood Smith reference is not a proper prior art reference for application against the claims of the present application.

In view of the foregoing, it is respectfully requested that the aforementioned anticipation rejection of claims 1-4, 6-8, 10-12, and 14-24 be withdrawn.

II. CONCLUSION

In view of the foregoing, it is respectfully submitted that the present application is in condition for allowance, and an early indication of the same is courteously solicited. The Examiner is respectfully requested to contact the undersigned by telephone at the below listed telephone number, in order to expedite resolution of any issues and to expedite passage of the present application to issue, if any comments, questions, or suggestions arise in connection with the present application.

To the extent necessary, a petition for an extension of time under 37 CFR § 1.136 is hereby made.

Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to

Patent Application
Attorney Docket No.: 57983.000005
Client Reference No.: 12283ROUS01U

Deposit Account No. 50-0206, and please credit any excess fees
to the same deposit account.

Respectfully submitted,

Hunton & Williams LLP

By: 

Thomas E. Anderson

Registration No. 37,063

TEA/vrp

Hunton & Williams LLP
1900 K Street, N.W.
Washington, D.C. 20006-1109
Telephone: (202) 955-1500
Facsimile: (202) 778-2201

Date: September 27, 2005

Patent Application
Attorney Docket No.: 57983.000005
Client Reference No.: 12283ROUS01U

APPENDIX B

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60/171,703

ULTRASOUND TRANSDUCERS FOR IMAGING AND THERAPY

Application Data

Application Number:	60/171,703	Customer Number:	-
Filing or 371 (c) Date:	12-23-1999	Status:	Provisional Application Expired
Application Type:	Provisional	Status Date:	09-22-2001
Examiner Name:	,	Location:	FILE REPOSITORY (FRANCONIA)
Group Art Unit:	-	Location Date:	05-29-2001
Confirmation Number:	2393	Earliest Publication No:	-
Attorney Docket Number:	THERUS04-PRO	Earliest Publication Date:	-
Class / Subclass:	-	Patent Number:	-
First Named Inventor:	JIMIN ZHANG , BELLEVUE, WA (US)	Issue Date of Patent:	-
Title of Invention:	ULTRASOUND TRANSDUCERS FOR IMAGING AND THERAPY		

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ULTRASOUND TRANSDUCERS FOR IMAGING AND THERAPY

Transaction History

Date	Contents Description
09-22-2001	Set Application Status
02-04-2000	Application Dispatched from OIPE
01-06-2000	IFW Scan & PACR Auto Security Review
01-03-2000	Initial Exam Team nn

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ULTRASOUND TRANSDUCERS FOR IMAGING AND THERAPY

Image File Wrapper

This application is officially maintained in paper form. The document images below do NOT comprise the complete contents of the application file wrapper. To View: Click the desired Document Description. To Download and Print: Check the desired document(s) and click StartDownload.

Mail Room Date	Document Description	Page Count	
12-23-1999	Miscellaneous Incoming Letter	42	<input type="checkbox"/>

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ULTRASOUND TRANSDUCERS FOR IMAGING AND THERAPY

Continuity Data

Parent Continuity Data	
No Parent Continuity Data Found.	
Child Continuity Data	
09/696,076	filed on 10-25-2000 which is Patented claims the benefit of 60/171,703
09/747,310	filed on 12-22-2000 which is Patented claims the benefit of 60/171,703
10/616,831	filed on 07-10-2003 which is Pending claims the benefit of 60/171,703
10/780,405	filed on 02-17-2004 which is Pending claims the benefit of 60/171,703
10/806,083	filed on 03-22-2004 which is Pending claims the benefit of 60/171,703
29/183,881 filed on 06-16-2003 which is Pending claims the benefit of 60/171,703	
PCT/US00/35262 filed on 12-22-2000 which is Pending claims the benefit of 60/171,703	
PCT/US00/41606 filed on 10-25-2000 which is Pending claims the benefit of 60/171,703	

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Correspondence Details

Correspondence Address		
Name:	JEFFREY SLUSHER	
Address:	34825 SULTAN-STARTUP RD SULTAN WA 98294	
Attorney/Agent Information		
Reg #	Name	Phone
34729	PEARCE, JEFFREY	360-793-6687

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